

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

THOMAS E. WHATLEY III,  
*Plaintiff,*

v.

CREDITWATCH SERVICES, LTD.,  
*Defendant.*

§  
§  
§  
§  
§  
§  
§

Case No. 4:11-cv-493

**VERDICT FORM**

We, the jury, find as follows:

With regard to Plaintiff's claims under the Telephone Consumer Protection Act (TCPA),

**QUESTION NO. 1**

Do you find from a preponderance of the evidence that Defendant called Plaintiff's cell phone using an ATDS?

Answer:

  X   YES

       NO

**QUESTION NO. 2**

Do you find from a preponderance of the evidence that Defendant called Plaintiff's cell phone using an artificial or prerecorded voice?

Answer:

  X   YES

       NO

**If you answered "YES" to either Question No. 1 or Question No. 2, answer Question No. 3. Otherwise, move to Question No. 7.**

**QUESTION NO. 3**

Do you find from a preponderance of the evidence that Plaintiff gave his prior express consent to be called on his cell phone regarding the underlying transaction at issue in this case?

Answer:

  X   YES  
       NO

**If you answered "YES" to Question No. 3, answer Question No. 4. If not, move to Question No. 5.**

**QUESTION NO. 4**

Do you find from a preponderance of the evidence that Plaintiff revoked his prior express consent to be called on his cell phone regarding the underlying transaction at issue in this case?

Answer:

  X   YES  
       NO

**If you answered "NO" to Question No. 3, or "YES" to Question No. 3 AND "YES" to Question No. 4, answer Questions No. 5 and 6. If you answered "YES" to Question No. 3 and "NO" to Question No. 4, move to Question No. 7.**

**QUESTION NO. 5**

How many calls, if any, do you find from a preponderance of the evidence were made by Defendant to Plaintiff's cell phone using an ATDS without consent in violation of the TCPA?

Answer:   16

**QUESTION NO. 6**

How many calls, if any, do you find from a preponderance of the evidence, were made by Defendant to Plaintiff's cell phone using an artificial or prerecorded voice without consent in violation of the TCPA?

Answer: 7

With regard to Plaintiff's claims under the Fair Debt Collection Practices Act (FDCPA),

**QUESTION NO. 7**

Do you find from a preponderance of the evidence that Defendant used any false representations or deceptive means to collect or attempt to collect any debt or obtain information concerning Plaintiff?

Answer:

X YES  
       NO

**If you answered "YES" to Question No. 7, answer Question No. 8. If not, move to Question No. 9.**

**QUESTION NO. 8**

Do you find from a preponderance of the evidence that Plaintiff suffered actual damages as a result of the conduct described in Question No. 7?

Answer:

       YES  
X NO

**If you answered "YES" to Question No. 8, what sum of money, if any, paid now in cash, would fairly and reasonably compensate Plaintiff for his actual damages, if any, that resulted from such conduct: \$ \_\_\_\_\_.**

**QUESTION NO. 9**

Do you find from a preponderance of the evidence that Defendant used any false representation or implication that any individual is an attorney or that any communication is from an attorney?

Answer:

\_\_\_\_\_ YES  
X  
\_\_\_\_\_ NO

**If you answered "YES" to Question No. 9, answer Question No. 10. If not, move to Question No. 11.**

**QUESTION NO. 10**

Do you find from a preponderance of the evidence that Plaintiff suffered actual damages as a result of the conduct described in Question No. 9?

Answer:

\_\_\_\_\_ YES  
\_\_\_\_\_ NO

**If you answered "YES" to Question No. 10, what sum of money, if any, paid now in cash, would fairly and reasonably compensate Plaintiff for his actual damages, if any, that resulted from such conduct: \$ \_\_\_\_\_.**

**QUESTION NO. 11**

Do you find from a preponderance of the evidence that Defendant communicated with Plaintiff in connection with the collection of a debt while knowing Plaintiff is represented by an attorney with respect to such debt and knowing or being able to readily ascertain such attorney's name and address?

Answer:

X  
\_\_\_\_\_ YES  
\_\_\_\_\_ NO

**If you answered "YES" to Question No. 11, answer Question No. 12. If not, move to Question No. 14.**

**QUESTION NO. 12**

Did Defendant show by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error?

Answer:

\_\_\_\_\_ YES

  X   NO

**If you answered "YES" to Question No. 12, move to Question No. 14. If you answered "NO" to Question No. 12, answer Questions No. 13.**

**QUESTION NO. 13**

Do you find from a preponderance of the evidence that Plaintiff suffered actual damages as a result of the conduct described in Question No. 11?

Answer:

\_\_\_\_\_ YES

  X   NO

**If you answered "YES" to Question No. 13, what sum of money, if any, paid now in cash, would fairly and reasonably compensate Plaintiff for his actual damages, if any, that resulted from such conduct: \$ \_\_\_\_\_.**

**QUESTION NO. 14**

Prior to this trial, it was determined as a matter of law that Defendant violated the FDCPA, 15 U.S.C. § 1692d(6) when it contacted Plaintiff without identifying its business name or stating that the call was from a debt collector.

Do you find from a preponderance of the evidence that Plaintiff suffered actual damages as a result of the conduct described in Question No. 14?

Answer:

\_\_\_\_\_ YES

  X   NO

If you answered "YES" to Question No. 14, what sum of money, if any, paid now in cash, would fairly and reasonably compensate Plaintiff for his actual damages, if any, that resulted from such conduct: \$ \_\_\_\_\_.

**QUESTION 15**

Prior to this trial, it was determined as a matter of law that Defendant violated the FDCPA, 15 U.S.C. § 1692e(11) when it contacted Plaintiff without disclosing that it was attempting to collect a debt.

Do you find from a preponderance of the evidence that Plaintiff suffered actual damages as a result of the conduct described in Question No. 15?

Answer:

\_\_\_\_\_ YES

  X   NO

If you answered "YES" to Question No. 15, what sum of money, if any, paid now in cash, would fairly and reasonably compensate Plaintiff for his actual damages, if any, that resulted from such conduct: \$ \_\_\_\_\_.

**QUESTION NO. 16**

What amount of statutory damages, if any, do you award to Plaintiff, up to a maximum of \$1,000, as a result of the conduct described in Questions No.7, 9, 11, 14, and 15?

Answer: \$   1,000.00  .

Date:   5/31/13  

Signed: \_\_\_\_\_

Redacted  
Foreperson